

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROBERT WILLIAMS, §
TDCJ-CID NO.1482900, §
Plaintiff, §
v. § CIVIL ACTION NO. H-11-2228
§
DIR. ALLEN HIGHTOWER, et al., §
Defendants. §

ORDER

On November 15, 2011, the Court dismissed state inmate Robert Williams's civil rights complaint with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B). (Docket Entry No.11). On November 29, 2011, plaintiff filed a notice of appeal. (Docket Entry No.13). Pending is plaintiff's application to proceed on appeal *in forma pauperis*. (Docket Entry No.14).

Under 28 U.S.C. § 1915(a)(3), and under Federal Rule of Appellate Procedure 24(a), an appeal may not be taken *in forma pauperis* if the trial court certifies in writing that the appeal is not taken in good faith. In this case, the Court certifies that the present appeal is not taken in good faith because plaintiff failed to state a cognizable Eighth Amendment claim against defendants in his pleadings. In its Memorandum and Order of Dismissal of November 15, 2011, the Court found that plaintiff's pleadings showed only his disagreement with the prescribed treatment of medical providers and that such providers had been responsive to his medical needs. (Docket Entry No.11). The Court also found that plaintiff failed to show the personal involvement

of defendants who served as administrators and failed to state any facts giving rise to an award of punitive damages. (Id.). The Court further found that defendants were immune under the Eleventh Amendments from damages on claims against them in their official capacities. (Id.).

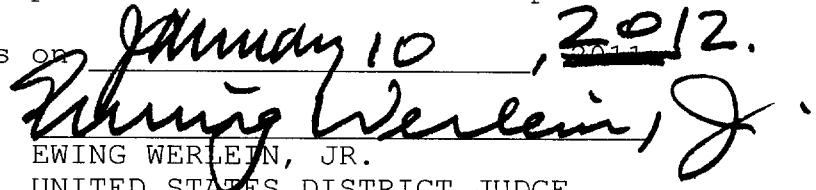
Accordingly, the Court DENIES Robert Williams's application to proceed on appeal *in forma pauperis* (Docket Entry No.14) and CERTIFIES that the appeal is not taken in good faith. Robert Williams may challenge this finding pursuant to Baugh v. Taylor, 117 F.3d 197 (5th Cir. 1997), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, U.S. Court of Appeals for the Fifth Circuit, within thirty days of the date of this Order.

If Robert Williams moves to proceed *in forma pauperis* on appeal, he shall pay an initial partial filing fee of \$8.00. The agency having custody of the plaintiff shall collect this amount from the plaintiff's inmate trust fund account or institutional equivalent, when funds are available, forward it to the Clerk.

Thereafter, the plaintiff shall pay \$447.00, the balance of the filing fees, in periodic installments as required by 28 U.S.C. § 1915(b). The agency shall collect this amount from the plaintiff's trust account and forward it to the Court.

The Clerk will provide copies of this Order to the parties.

SIGNED at Houston, Texas on January 10, 2012.


EWING WERLEIN, JR.
UNITED STATES DISTRICT JUDGE